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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

NIPPONKOA INSURANCE COMPANY
LIMITED,

Plaintiff,

- against -

NORFOLK SOUTHERN RAILWAY COMPANY

And

THE KANSAS CITY SOUTHERN RAILWAY
COMPANY

Defendants.

NO.: 07 CIV. 10498

JUDGE CHIN

**DECLARATION OF ALFONSO
GAMBONE IN SUPPORT OF
DEFENDANT'S MOTION FOR
SUMMARY JUDGMENT**

I, Alfonso Gambone, declare that I am an associate of Keenan Cohen & Howard P.C., attorneys for defendants Norfolk Southern Railway Company and the Kansas City Southern Railway Company.

1. Attached hereto as Exhibit A is a true and accurate copy of the ENPLAS (U.S.A.), Inc. ("ENPLAS") Waybill generated by ENPLAS for container YMLU4361427 of the Auto

Parts Shipment identified in Defendants' Statement of Undisputed Material Facts Per Local Rule 56.1. ("Dendants' Concise Statement of Material Facts.")

2. Attached hereto as Exhibit B is a true and accurate copy of the Yang Ming Transport Corp. (Yang Ming) Sea Waybill generated by Yang Ming for container YMLU4361427 of the Auto Parts Shipment identified in Defendants' Statement of Material Facts.

3. Attached hereto as Exhibit C is a true and accurate copy of the Norfolk Southern Company ("Norfolk Southern") Waybill generated by Norfolk Southern for container YMLU4361427 of the Auto Parts Shipment identified in Defendants' Statement of Material Facts.

4. Attached hereto as Exhibit D is a true and accurate copy of the Subrogation Receipt of ENPLAS pertaining to the Auto Parts Shipment identified in Defendants' Statement of Material Facts.

5. Attached hereto as Exhibit E is true and accurate copy of excerpts of the Deposition Transcript of Brian W. Daugherty identified in Defendants' Statement of Material Facts.

6. Attached hereto as Exhibit F is a true and accurate copy of the of Fuji OOZX ("OOZX") Waybill generated by OOZX for container TEXU4763735 of the Engine Valve Shipment identified in Defendants' Statement of Material Facts.

7. Attached hereto as Exhibit G is a true and accurate copy of the Yang Ming Transport Corp. (Yang Ming) Sea Waybill generated by Yang Ming for container TEXU4763735 of the Engine Valve Shipment identified in Defendants' Statement of Material Facts.

8. Attached hereto as Exhibit H is a true and accurate copy of the Norfolk Southern Company ("Norfolk Southern") Waybill generated by Norfolk Southern for container TEXU4763735 of the Auto Parts Shipment identified in Defendants' Statement of Material Facts.

9. Attached hereto as Exhibit I is a true and accurate copy of the Subrogation Receipt of OOXZ pertaining to the Engine Valve Shipment identified in Defendants' Statement of Material Facts.

10. Attached hereto as Exhibit J is a true and accurate copy of excerpts of the Deposition Transcript of Urs Peter Widmer identified in Defendants' Statement of Material Facts.

11. Attached hereto as Exhibit K is a true and accurate copy of Plaintiff's Supplemental Responses to Defendant's Request for Admissions identified in Defendants' Statement of Material Facts.

12. Attached hereto as Exhibit L is a true and accurate copy of Plaintiff's Rule 26(a) Initial Disclosures identified in Defendants' Statement of Material Facts.

13. Attached hereto as Exhibit M is a true and accurate copy of Defendants' Second Amended Notice of Deposition Pursuant to Fed. R. Civ. P 30(b)(6) identified in Defendants' Statement of Material Facts.

14. Attached hereto as Exhibit N is a true and accurate copy of Plaintiff's Declaration of ENPLAS Corporation pursuant to F.R.E. 902 identified in Defendants' Statement of Material Facts.

15. Attached hereto as Exhibit O is a true and accurate copy of Plaintiff's Declaration of OOZX Corporation pursuant to F.R.E. 902 identified in Defendants' Statement of Material Facts.

16. Attached hereto as Exhibit P is a true and accurate copy of an excerpt from a website regarding the City of Tochigi, Japan. This information was obtained from the following webpage on March 26, 2009: http://en.wikipedia.org/wiki/Nikk%C5%8D,_Tochigi; identified in Defendants' Statement of Material Facts.

17. Attached hereto as Exhibit Q is a true and accurate copy of an excerpt from a website regarding Shizuoka, Japan. This information was obtained from the following webpage on March 26, 2009: <http://www.pref.shizuoka.jp/sangyou/sa-530/english/guide/ichi.html>; identified in Defendants' Statement of Material Facts.

18. Plaintiff has not disclosed any experts to testify on its behalf on any issue in this lawsuit.

By: /s/ Alfonso Gambone
Alfonso Gambone

Dated: March 31, 2009

CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify that on March 31, 2009 a true and correct copy of the foregoing Declaration of Alfonso Gambone in Support of Defendants' Motion for Summary Judgment was filed electronically. Notice of this filing will be sent to the following party, listed below, by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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By: /s/ Alfonso Gambone
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